

Application/Control No.: 10/647,165
Art Unit: 1751

REMARKS

Claims 1-25 remain in the application. Claim 5 has been cancelled. Claims 1, 22 and 24 are currently amended. Support for the amendments is original claim 5.

CLAIM OBJECTIONS

Claim 22 was objected to because on line 3, "and" is misspelled as "arid". Claim 22 has been amended as required by the Examiner.

Claim 24 was objected to because on line 4, "to" should be added after "subjected". Claim 24 has been amended as required by the Examiner.

CLAIM REJECTION UNDER 35 U.S.C. § 103(a)

Claims 1-4, 6-24 and 26 were rejected under 35 U.S.C. §103(a) as being obvious over Gassenmeler et al. (WO 00/36063). The Examiner noted that the English equivalent of WO 00/36063 is Millhoff et al. (US Patent No. 6,340,662) and that Millhoff was used by the Examiner as the English translation of WO 00/36063.

This rejection is respectfully traversed by amending claim 1 to incorporate the limitations of claim 5. It is submitted that claim 1 as amended is patentable over WO 00/36063 because it is essentially the same as claim 5 and claim 5 was not rejected over WO 00/36063 in the office action of 08/02/2006.

Claims 5 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over WO 00/36063 as applied to the above claims, and further in view of Hall et al. (US Patent No. 6,093,218).

It is the Examiner's position that WO '063 teaches the features as described above but fails to disclose sodium hydrogen sulfate or citric acid and that Hall teaches a source of acidity which include citric acid, sodium hydrogen sulfate or a salt thereof.

The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the alkali metal citrate

Application/Control No.: 10/647,165
Art Unit: 1751

of WO '063 with citric acid or sodium hydrogen sulfate because the substitution of art recognized equivalents is within the level of ordinary skill in the art¹.

This rejection is respectfully traversed. Applicants submit that the Examiner has failed to make a prima facie case of obviousness by failing to provide the motivation to combine the teachings of Hall and WO 00/36063. First of all, Applicants submit that Hall is not analogous art because the problem solved by the invention of the Hall patent is very different from the problem solved by the instantly claimed process. The problem solved by an inventor is pertinent to the definition of the scope of analogous prior art. In re Deminski, 796 F.2d 436, 442 (Fed. Cir. 1986)

The problem solved by the invention of the Hall patent is the elimination or the reduction of the problem of solid laundry detergent particles remaining in a washing machine and on washed clothes by the inclusion of an acid source in a detergent composition. The reaction between the alkaline detergent and the acid source results in a gas that helps disperse the detergent and minimize the formation of insoluble clumps. (See col. 2, line 54 to col. 3, line 4). The problem solved by the instantly claimed process is the increase in the stability of foam regulating granular particles having a sprayed-on coating of the claimed aqueous emulsion. The instability is due to the fact that conveyance and transportation of foam regulating particles can lead to their disintegration into smaller particles or powders which, while still having a good foam-regulating effect, cannot be incorporated directly in a uniform manner into particulate detergents or cleaners ([0012] of the instant specification).

A person of ordinary skill in the art would not look to the teachings of Hall for guidance in solving the problem solved by the instantly claimed process. The function of the acid source in Hall is to react with the alkaline to produce a gas as explained above. The Bronsted acid of the instantly claimed process is part of the carrier material onto which the claimed aqueous foam regulating

¹ Applicants respectfully point out that an alkali metal citrate is NOT a Bronsted acid because an alkali metal citrate is not a proton donor because it lacks acidic protons.

Application/Control No.: 10/647,165
Art Unit: 1751

emulsion is deposited in order to improve the stability of the coated particulate granules. The substitution of the alkali metal citrate of WO '063 with citric acid or sodium hydrogen sulfate is an art recognized substitution of equivalents for a process for preparing a detergent powder not for a process for preparing particulate foam regulating granules that are sprayed with an aqueous foam regulating emulsion in the instantly claimed process.

Secondly, one of ordinary skill in the art at the time the invention was made would also not have been motivated to substitute the alkali metal citrate of WO '063 with citric acid or sodium hydrogen sulfate because Hall teaches that the acid useful in the invention taught therein must be in particulate form wherein about 80% or more of the particles have a particle size in the range of from about 150 microns to about 710 microns, with at least about 37% by weight of the acid having a particle size of about 350 microns or less. (see col 2, lines 55-61). Such a restrictive teaching would teach away from combining it with the teachings of WO '063 to arrive at instant claim 25. A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. In re Gurley, 31 USPQ 2d 1130, 1131 (Fed. Cir. 1994).

Claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0,071,481. This rejection has been mooted by the cancellation of claim 26.

CONCLUSION

In view of the amendments and remarks above, Applicants respectfully request reconsideration and reexamination of all pending claims. Applicants further submit that claims 1-4 and 6-25 are now in condition for allowance and a notice of allowance is respectfully requested. Should any fee be due for entry and consideration of this Amendment that has not been accounted for, the Commissioner is authorized to charge such fee(s) to Deposit Account No. 160750.

Application/Control No.. 10/647,165
Art Unit: 1751

Respectfully submitted,



John E. Drach
Registration Number 32,891
Paul and Paul
2000 Market Street
Suite 2900
Philadelphia, PA 19103
215-568-4900
Paul & Paul Order # 4528